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THE TAXATION OF INTANGIBLE WEALTH IN MARYLAND.

SUMMARY.

General considerations leading to a change in the method of assessment, 196-198.—Origin and history of former methods, 198-200.—Working of the new method, 201-203.—Further possibilities, 203-207.—Summary, 207-209.

I.

THE taxation of personal property—or at least that part of it commonly described as “intangible wealth”—is the storm center of current fiscal discussion in the United States.

The assessment of chattels and household effects, of mercantile stocks and industrial plants, of shares of stock of domestic corporations, and of locally employed capital of foreign corporations, presents difficulties not different in kind from the efficient valuation of real estate. It is when we leave the domain of things and come to the realm of rights, and have to do with stocks, bonds, and evidences of ownership not taxable “at the source,” that the real difficulties occur. For here it is no longer the relatively simple elements of finance that confront us, but an intricate complex of finance and psychology,—escape from taxation, double taxation, jurisdictional conflicts.

So flagrant have been the lapses of intangible property assessment and so complete has been the breakdown of insistent attempts to associate intangible wealth with real estate and tangible personalty for identical taxation under the term “general property,” that the pendu-

lum of expert opinion has tended to swing to quite the other end, and some of the most distinguished students of American finance have urged the complete exemption of such intangible property, and, as a means to that end, the separation of state and local sources of revenue, by constitutional amendment and legal enactment in so far as necessary.

It is hardly necessary to insist that these two proposals are in essence independent and distinct, and that, altho the provisions of the ordinary American state constitution would prevent the exemption of personalty, save as a corollary to the disassociation of state and local revenue, yet it by no means follows that the converse is true and that advocacy of such separation carries with it a necessary presumption in favor of exempting personalty.

Indeed, at this point expert counsel and public opinion have been in sharp opposition. The text-books writers have accumulated masses of graphic evidence as to the inherent depravity of the tax on intangible personalty, and have insisted on its complete elimination from the scheme of local taxation. On the other hand, public sentiment has been unwilling to tolerate the concrete fact of wealthy citizens, owners of stocks and bonds, enjoying all or many of the benefits of municipal service, and freed entirely from the onerous tax burden resting upon other forms of property.

It is not proposed, in this connection, to discuss the relative merits of these opposed views. Much has been left unsaid on both sides. Certainly, not a fraction of the actual evils attending the working of the tax on intangible wealth has been brought to light. But, on the other hand, its critics have made sad confusion of theory and practise, of principle and administration, and have cried out somewhat dramatically that the tax is bad,

because, attempted under unfavorable conditions, it has worked badly. More than this, insufficient emphasis has been placed upon the fact that an equivalent burden of taxation upon different classes of property does not necessitate an identical rate of taxation. Whenever, as in the contrasting cases of real estate and intangible wealth, tax liability, on the one hand, and tax immunity, on the other,—as represented by many years of actual tax administration,—have been virtually capitalized, fiscal justice is approximated rather than violated by differential rates.

Ten years ago the State of Maryland, through fiscal exigency rather than in consequence of scientific analysis, was supplied with a method of taxing so-called “intangible wealth,” which in the decade of its operation, under but fairly efficient administration, has placed a steadily increasing assessment of such wealth upon the tax books, to the material betterment of the public treasury, to the appreciable relief of the over-taxed real estate owner, to the manifest improvement of local tax morality, and to the lessening of migration for tax purposes. The following pages are devoted to a description of this experiment and to an estimate of its results.

II.

The reckless participation of Maryland in various schemes of internal improvement in the decade from 1830 to 1840 resulted in the accumulation of a large and oppressive state debt. Direct taxation, hitherto distinctly an emergency resource, became in 1841 the only means of averting repudiation. The imposition of a general property tax was proposed, resisted, delayed, and finally effected by the passage on April 1, 1841, of “an act for the general valuation and assessment of property in this

state, and to provide a tax to pay the debts of the state." It authorized the first general reassessment of property in Maryland since 1812, and imposed a direct property tax for state purposes of 1-5 of 1 per cent.

The act of 1841 introduced the essential features of the modern property assessment system of Maryland,—the employment of a common basis for state and municipal taxation and the virtual absence of any periodic local reassessment. Subsequent revaluations of property primarily for purposes of state taxation were made in 1852, in 1858 (in Baltimore City), in 1866, and in 1876.

The results attained by the reassessment of 1876 remained practically the basis of state and local taxation for the next twenty years, during which time occurred no general revision of valuations. The respective boards of county commissioners in the counties, and the Appeal Tax Court in Baltimore, were indeed authorized to revise assessments from time to time, but no adequate equipment was provided therefor, and little was done beyond taking account of transferred titles, newly erected buildings, and fresh arrivals. The resulting conditions were exactly what might have been expected from an original faulty assessment, an entire absence of equalization, and a long period of neglected revision. The widest discrepancies in rate and manner of assessment manifested themselves as between county and county and as between counties and city, and the most intense resentment developed at the evident escape of personalty.

In the legislative campaign of 1892, reassessment was made a successful party issue. The General Assembly then elected promptly passed a radical reassessment law, of which the conspicuous feature was drastic provision for the listing of personal property. But so bitter was the outcry raised by propertied and mercantile interests in Baltimore and throughout the state that,

after a brief period of indecision, the governor vetoed the measure. Reassessment slumbered in 1894, but two years later the forces were again marshalled and the long-deferred revision was authorized.

This time the crucial point was met by simple compromise. Provision was made for a stringent tho less drastic listing and for biennial relisting. The bonds and certificates of indebtedness of all corporations and the shares of stock of foreign corporations were assessed at their actual market value and subjected to the full state tax ($17\frac{3}{4}$ mills in 1896), as all other forms of taxable property. But in lieu of the ordinary municipal and county taxes, varying in rate from 6-10 of a cent to 2 cents, a fixed maximum charge of 30 mills, or 3-10 of 1 per cent., was imposed for local purposes upon property so listed.

The motive of the adjustment was evident. County sentiment stood for a rigorous listing of personalty, and fortified its position by the declaration of the Maryland constitution of 1867, that "every person in the state, or person holding property therein, ought to contribute his proportion of public taxes for the support of the government, according to his actual worth in real or personal property." City sentiment, willing enough to take its chance with the old assessment law, but fearful of the severities of the proposed new law, stood firm in opposition, insisting that rigid listing meant either a greater premium upon perjury or the quick expulsion of local capital. In this juncture, imposition of the full state rate and a moderate maximum for local purposes were suggested as a fair compromise, and to it both parties assented rather than incur the risk of a second executive veto or the ultimate passage of a drastic measure.

III.

Turning now to the actual operation of the tax, attention will in this connection be confined to Baltimore City. There are several reasons for this, aside from the determining one that only in the case of Baltimore are sufficient data available. The counties publish no reports and make no return of their taxable basis other than a single undifferentiated aggregate to the State Tax Commissioner, published biennially. Moreover, Maryland is distinctly an agricultural state of moderate accumulated wealth. The only other local divisions likely to contain appreciable amounts of securities are Allegheny and Washington Counties—in which Cumberland and Hagerstown are respectively located—and Baltimore County, whose salubrious climate and lower tax rate have induced numerous wealthy persons engaged in business in Baltimore to acquire legal county residence. Finally, the method or utter lack of method in county assessment is such as to make it impossible to get any helpful light whatever upon the merits or defects of the tax itself.

Confining attention to Baltimore, it appears that for the year prior to the reassessment of 1896, securities—then liable to the full property tax—were returned in Baltimore only to the aggregate amount of \$6,000,000. The reassessment of 1896 resulted for Baltimore City in a return of \$58,703,795 of securities. Upon this was imposed $17\frac{3}{4}$ mills (the full rate) for state purposes and 30 mills for city purposes. By 1898 the original total had been slightly revised to \$60,699,686. The biennial relisting, provided by the original measure, took place in 1898. It proved so complete a failure—the amount assessed rising only to \$61,890,764—that a complete

change of system was made in 1900. The Appeal Tax Court (the municipal assessing board) was charged with the duty of continuous valuation and quinquennial revision.

The total assessed valuation of securities returned for the 1899 basis as \$61,000,000 rose at once in 1900 to \$65,000,000, and in subsequent years continued to rise until in 1907 it reached \$150,000,000. The precise figures are as follows:—

1897	\$58,703,795	1903	\$94,336,562
1898	60,699,686	1904	85,971,333
1899	61,890,764	1905	104,221,227
1900	65,789,903	1906	120,423,814
1901	68,879,484	1907	150,947,733
1902	89,880,484	1908	146,688,857

It will thus be seen that in the ten years of its operation the taxable basis of intangible wealth, subject to the flat local rate of 30 cents, has increased from \$58,703,795 to \$146,688,857, or, roughly, 150 per cent. If the errors of the original assessment and the abnormal depreciation in securities of the last few months be eliminated, and comparison be had between the \$58,000,000 of 1897 and the \$150,000,000 of 1907, the result is a round increase of 170 per cent. During this same interval of ten years the total assessed valuation of other forms of personalty, excluding shares of stock of domestic corporations, but including tax-exempt manufacturing plants, increased only from \$37,020,838 in 1898 to \$39,232,866 in 1908, or 6 per cent. The movement in real estate during this same period was from \$233,955,093 in 1898 to \$325,723,818 in 1908, or 39 per cent. But an appreciable part of this more favorable showing was due to the unusual activity of the Appeal Tax Court in revising real estate valuations in the last three years. If the basis of comparison be made from 1897 to 1904, so as to exclude this period,

the results show an increase of 46 per cent. in securities and 9 per cent. in real estate.¹

IV.

Both by reason of its absolute increase and of its relative amount as compared with the aggregate assessments of real estate and of other forms of personal property, the record of the tax on securities is apparently most favorable. When, however, we come to analyze the returns and to separate the aggregate basis into the several elements of which it is composed, a vista of further possibilities is disclosed. For this purpose the 1899 basis—as returned by the biennial revision of 1898—may properly be compared with the 1908 basis.

The total assessment of “securities” in Baltimore for the 1899 basis was \$61,890,764. This was distributed among the 2,377 separate accounts. Of these 2,377 accounts, 6 accounts were corporations returning \$1,990,752; 778 accounts were trust estates returning \$18,404,241, and 1,593 accounts were individuals returning \$41,495,771.

The total assessment of “securities” in Baltimore for the 1908 basis is \$146,688,857. This aggregate is made up from precisely 3,300 separate accounts. Of these 3,300 accounts, 8 accounts are corporations returning \$52,408,092; 1,011 accounts are trust estates returning \$26,906,838, and 2,281 accounts are individuals returning \$67,373,927.²

Leaving aside the figures relating to corporations and

¹ For further particulars as to the assessment of real estate and tangible personalty, see Report of the Advisory Committee on Taxation and Revenue, submitted to the Mayor of Baltimore (Baltimore, 1908).

² Of the securities assessed against corporations, about \$4,000,000 is in dispute on points of law, with chances against the city being able to sustain the assessments. If this be allowed for, both in the corporation total and in the aggregate security basis, it would give the following percentages for the three terms: corporations 34 per cent.; trust estates, 19 per cent.; individuals, 47 per cent.

trust estates, as to which special conditions govern, it appears that from 1899 to 1908 there has been an increase of 43 per cent. in the number of individual accounts and an increase of 62 per cent. in the assessed value of the securities as returned.

Notable as is this result, it is very much less than it should be. That there are within the entire city limits of Baltimore, and out of its total population of at least 550,000 souls, only some 2,281 persons who own "securities"—whereas no less than 1,011 trust estates are so fortunate—is a manifest absurdity.

Such a return can only have one possible explanation; and that is, that the existing methods of assessment fail to secure anything like thorough return for purposes of taxation of such forms of wealth. When we review the course of such assessing activity in Baltimore, it becomes clear that this failure arises not from any inherent defect of the tax itself, but from the unsatisfactory method of its administration.

The general state assessment of 1897 seems to have been neither more nor less efficient, in the valuation of personalty, than any spasmodic assessment so conceived and administered will inevitably be. But, whatever results may have attended this reassessment, it is the common impression that the first biennial revision of personalty in 1898 was deficient in method and a failure in result. Many of the assessors should never have been appointed, and much of the work done was of so slipshod a character as to verge closely upon scandal. For several years thereafter a large part of the efforts of the Appeal Tax Court in the matter of personalty assessments is said to have been absorbed by the necessity of purging the tax books from the errors of the 1898 revision. It was undoubtedly this general dissatisfaction with the manner in which the biennial revision had been conducted, no

less than its failure to produce substantial results, that led the state legislature, at its first session thereafter, in 1900, to repeal the biennial revision and listing features and to substitute in lieu thereof, continuing revision and quinquennial reassessment.

There is no reason to suppose that the relisting of securities in 1898 was any more efficiently administered than the revision of general personalty. Indeed, from the greater delicacy of the task and the greater difficulty of its supervision, there is much reason for suspecting that the results were relatively even less favorable.

Unsatisfactory as they may have been, however, the results of the 1898 revision formed the basis of securities taxation for the next three years, with only such additions as accrued through the proneness of the Appeal Tax Court to pounce down upon unfortunate or unwary holders, heretofore untaxed. In 1901, however, under a new municipal administration the Appeal Tax Court made some deliberate effort to secure a larger return of securities for tax purposes. Starting at Centre Street, a wedge-shaped district extending east of Madison Avenue and west of the Falls, and widening north to North Avenue as far as Walbrook, and as far east as the York Road, was, in the course of 1901-03 "rescheduled"; that is, every house-owner in this district was served with a printed interrogation requiring a listed return of tax-liable securities. The results of this campaign were embodied in the increased basis of 1902, 1903, and 1904.

Since 1903 there has been comparative inactivity on the part of the Appeal Tax Court in the matter of assessing securities, or at least no systematic endeavor to maintain a continuing revision of present accounts. Vigilance has been shown in scheduling notorious individual cases, which for some reason or other have here-

tofore escaped. No small ingenuity has been displayed in tracing distributed estates or acquired capital or new issues of corporate obligations. After much effort the Supreme Bench has afforded access to its trust docket and to inventories of the Orphans' Court, and in other ways the basis has been materially enlarged. But the fact still remains that since 1898, with the exception of the rescheduling activity of 1901-03, itself partial and limited, there has been no systematic reassessment and no continuous revision in Baltimore of intangible wealth.

By this is not meant an endeavor to "drag the ponds" or to go through Baltimore with a fine-tooth comb, with a view to obtaining the listed return of every single bond or scrap of taxable stock. Such a procedure is manifestly Utopian in result, and the mere effort to realize it would mean a costly and offensive inquisition that would be repudiated after the briefest trial. It is the conspicuous absence of something very much less than this extreme procedure that is here noted. In consequence of an insufficient assessing force, it has been impossible to bring upon the tax books and to keep there, in reasonably close correspondence to actual values, anything like the aggregate volume of stocks and bonds which are now liable to taxation for local purposes at a rate commensurate with their income-producing capacity.

Within the last few months the municipality has awakened in some degree to a recognition of what may be accomplished in this direction. Additions have been made to the tax-assessing force for 1908, and a disposition has been shown to put into actual effect the provision of the city charter whereby every property assessment of Baltimore, whether real or personal, shall be subject to revision at least once in five years. If this new policy be carried into operation and if fidelity and

intelligence be displayed in its execution, the most favorable developments are to be anticipated.

V.

The situation might be summed up briefly as follows: the results obtained have been absolutely substantial, and relatively favorable, but they are very far from representing maximum possibilities. During the decade under consideration, Baltimore—the only city of size and wealth in the state—suffered a devastating conflagration, involving the destruction of many millions of tangible property and the necessary liquidation and conversion of considerable holdings of securities. The whole system of capital holding was disorganized, and only during the last two years has anything like equilibrium returned.

Moreover, the administration of the tax leaves much to be desired, both on the score of activity and efficiency. The whole basis of securities now upon the tax books, exclusive of the original listing, represents little more than the spasmodic efforts of an inadequate force working upon the problem at hand, under intelligent direction, but without systematic plan in pursuit. Beyond question better results are attainable. Any conceivable kind of tax would work poorly if similarly handicapped in administration. That under these conditions the results have been so favorable confirms the fiscal possibilities of the system under effective administration.

While the returns from the standpoint of the city's treasury have thus been far from satisfactory, the operation of the law has met with as much and as little favor at the hands of security holders as any form of personal taxation may expect to receive. That it is preferred to the old farcical endeavor to subject all such

property to the full city rate goes without saying. That it is deemed a not unfair distribution of the municipal burden is perhaps too much to state. All things considered, there seems a reasonable content, based in part upon appreciation of its necessity, in part upon fear lest it might be replaced by a worse substitute.

Whatever timidity operates to prevent a fuller return of securities seems to be inspired less by dissatisfaction with the burden of the present rate than the concern lest, when such property has been once assessed, the flat rate be repealed and the full city rate be imposed. In confirmation of this anxiety the well-known example of Connecticut in dealing with a somewhat similar device has been exploited. But, on the other hand, public sentiment seems to be crystallizing not only in favor of the tax as now imposed, but even to the point of recognizing that a breach of faith, or certainly a departure from sound policy, would be involved in any such change. At this juncture such a change is so remote as not even to be bruited, and from year to year, as the tax becomes more firmly intrenched and its results more favorable, the chance of any such course is likely to grow even less.

In short, there is no serious dissatisfaction with the operation of the device on the part of those directly affected, and there is expectation that, by keying up the whole tone of municipal tax assessment, substantially better things can hereafter be achieved for the city's interest. Subsequent experience may reveal defects or fallacies not now evident, but, if such be the case, amendment or repeal is entirely practicable. Considered as nothing more than a piece of fiscal opportunism, the Maryland device can properly engage the attention of those similarly circumstanced communities which are convinced of the unwisdom of further blunderbuss attempts to assess intangible wealth for full property taxa-

tion, and yet are not prepared to go to the other extreme of complete exemption. To these the method herein briefly described has, to the limited extent of its application, at least the merits of reasonableness in theory and a fair amount of success in practise.

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